

Message Text

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PAGE 01 GENEVA 03039 01 OF 02 251725Z

ACTION IO-06

INFO OCT-01 SS-14 ISO-00 EA-06 NEA-07 EUR-07 AF-04
ARA-06 SIL-01 LAB-01 COME-00 INR-05 CIAE-00 NSC-05
NSCE-00 EB-04 OIC-01 L-01 SP-02 IOE-00 SSO-00
TRSE-00 INRE-00 DHA-02 /073 W
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O R 251639Z APR 77

FM USMISSION GENEVA

TO SECSTATE WASHDC NIACT IMMEDIATE 6802

INFO ALL EC CAPITALS

USMISSION USUN NEW YORK

AMEMBASSY CANBERRA

AMEMBASSY CAIRO

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY TEL AVIV

AMEMBASSY TOKYO

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 3039

LIMDIS

IO FOR PALMER

S/IL FOR DALE GOOD

PASS LABOR FOR SAMUEL, HOROWITZ, QUACKENBUSH, AVERY AND
LINSENMEYER

PASS COMMERCE FOR UPTON

E.O. 11652: GDS

TAGS: ILO, PLAB

SUBJ: ILO: CONSULTATIONS ON U.S. PROPOSAL TO AMEND

ARTICLE 17 OF INTERNATIONAL LABOR CONFERENCE

STANDING ORDERS

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PAGE 02 GENEVA 03039 01 OF 02 251725Z

REF: GB/202/SC/6/4 FEBRUARY-MARCH 1977

1. SUMMARY: UK (ON BEHALF OF EC NINE) AND CANADA TOLD
US THEY UNDERSTAND U.S. IS REDRAFTING ITS PROPOSED
AMENDMENT OF ARTICLE 17; BOTH HAVE REQUESTED "WORKING
LEVEL CONSULTATION" IN GENEVA AS SOON AS THE NEW U.S.

DRAFT IS AVAILABLE. CANADA WANTS CONSULTATION AT IMED (INDUSTRIAL MARKET ECONOMY COUNTRIES) LEVEL. WE AGREED IN PRINCIPLE THAT CONSULTATION IS DESIRABLE AND SAID WE WOULD PASS THEIR REQUESTS TO WASHINGTON. THE FOLLOWING COMMENTS (PARAS TWO TO FIVE BELOW) FROM WORKERS, SECRETARIAT AND OTHERS ON U.S. TEXT INDICATE THAT THE PROBLEM IS COMPLEX; AND CLEARLY THE SUCCESS OR FAILURE OF U.S. EFFORTS WILL DEPEND ON THE AMOUNT OF SUPPORT FOR THE U.S. PROPOSAL WHICH WE CAN LINE UP BEFORE THE INTERNATIONAL LABOR CONFERENCE (ILC) IN JUNE. ACTION REQUESTED: WE WOULD LIKE TO HAVE THE TEXT OF THE REVISED U.S. PROPOSAL ASAP AND INSTRUCTIONS ON CONSULTATIONS HERE, WHICH WE SUGGEST BE HELD AT IMEC LEVEL (SEE PARA SIX BELOW). END SUMMARY.

2. JOSE AGUIRIANO, ICFTU REP IN GENEVA AND SECRETARY OF WORKERS GROUP, MADE THE FOLLOWING COMMENTS:

A. THE WORKERS GROUP CANNOT ACCEPT THE WORDS "INITIATED AND COMPLETED" IN THE U.S. PROPOSAL IN (3) (B) CALLING FOR EXCLUSION OF RESOLUTIONS CONDEMNING MEMBER NATIONS FOR ALLEGED VIOLATIONS OF ILO CONVENTIONS AND RECOMMENDATIONS BEFORE EXAMINATION OF THE ALLEGATIONS UNDER ESTABLISHED ILO PROCEDURES. AGUIRIANO SAID THE WORKERS GROUP COULD NOT WAIT INDEFINITELY TO INTRODUCE RESOLUTIONS OF CONDEMNATION IN CASES WHERE THE FACTS WERE CLEAR AND THE WORKERS HAD REACHED A CONSENSUS, SUCH AS CHILE (HE COMMENTED THAT ISRAEL AND CZECHOSLOVAKIA WERE DIFFERENT CASES BECAUSE THE WORKERS HAD NOT REACHED

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PAGE 03 GENEVA 03039 01 OF 02 251725Z

A CONSENSUS). HE SAID HE COULD ACCEPT SUBSTITUTE LANGUAGE PROPOSED BY THE SECRETARIAT IN PARA THREE BELOW.

B. AGUIRIANO WAS ALSO CONCERNED THAT THE U.S. PROPOSAL NOT CAUSE A DELAY IN THE WORK OF THE ILC RESOLUTIONS COMMITTEE. HE BELIEVES THIS PROBLEM MAY BE SOLVED IF PARA (4) (E) OF THE U.S. PROPOSAL IS AMENDED SO THAT THE ILC OFFICERS MAKE THEIR FINAL DETERMINATION "WITHIN FORTY-EIGHT HOURS AFTER THE OPENING OF THE ILC".

C. CONCERNING THE DANGER OF CIRCUMVENTING U.S. INTENTIONS BY AMENDING RESOLUTIONS IN THE RESOLUTIONS COMMITTEE, AGUIRIANO SUGGESTED THAT THE COMMITTEE PROCEDURES BE AMENDED TO PROHIBIT REFERENCE TO SPECIFIC COUNTRIES AND TO OBVIOUSLY IDENTIFIABLE CONDITIONS.

D. AGUIRIANO BELIEVES THAT THE MOST WE CAN EXPECT FROM ANY SCREENING PROCESS IS THAT IT WILL CREATE A SERIES OF PROCEDURAL OBSTACLES THAT WILL DISCOURAGE

POLITICAL RESOLUTIONS. HE SAID HE HAD POINTED OUT TO THE SOVIETS THAT PRESENT PROCEDURES COULD BE USED AGAINST THEM; CONSIDERING THE CHANGED ATMOSPHERE IN THE U.S. AND IN EUROPE ABOUT HUMAN RIGHTS AND THE MEANING OF DETENTE, HE BELIEVES THE SOVIETS "GOT THE MESSAGE".

3. ILO LEGAL ADVISER FRANCIS WOLF AND ASSISTANT MORGENSTERN MADE THE FOLLOWING COMMENTS:

A. ON THE POINT RAISED BY AGUIRIANO IN PARA TWO A ABOVE, MORGENSTERN SUGGESTED THAT PARA (3) (B) BE AMENDED TO READ "(B) PROPOSING THE CONDEMNATION OF A MEMBER STATE OR STATES BY NAME, OR OF THE AUTHORITIES OR POLICIES THEREOF, FOR ALLEGED VIOLATIONS OF ILO STANDARDS CONTAINED IN ILO CONVENTIONS AND RECOMMENDATIONS WHERE THOSE ALLEGATIONS HAVE NOT BEEN SUSTAINED IN CONCLUSIONS ARRIVED AT IN ESTABLISHED ILO PROCEDURES".
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PAGE 04 GENEVA 03039 01 OF 02 251725Z

B. MORGENSTERN NOTED THAT THE U.S. PROPOSAL IN (3) (A) AND (B), COVERS SITUATIONS OF CONDEMNATION BUT MIGHT BE CIRCUMVENTEDGY "; 6858:8 ." WHICH IN SUBSTANCE CONDEMNED A MEMBER COUNTRY BUT IN FORM FELL SHORT OF CONDEMNATION. SHE HAD NO SUGGESTION FOR NEW LANGUAGE.

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PAGE 01 GENEVA 03039 02 OF 02 251747Z
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FM USMISSION GENEVA
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AMEMBASSY CANBERRA
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C O N F I D E N T I A L SECTION 2 OF 2 GENEVA 3039

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C. WOLF AND MORGENSTERN AGREED WITH WHAT THEY SAID
WAS THE FRENCH POSITION THAT THE EXCLUSION OF RESOLU-
TIONS WAS A "POLITICAL DECISION" WHICH SHOULD BE
TAKEN BY POLITICAL REPRESENTATIVES, I.E., THE OFFICERS
OF THE GOVERNING BODY AND/OR OF THE ILC. MORGENSTERN
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PAGE 02 GENEVA 03039 02 OF 02 251747Z

ALSO SUGGESTED THAT A MAJORITY DECISION (PROPOSED IN (6)
OF U.S. PROPOSAL) MIGHT VIOLATE THE TRIPARTITE PRINCIPLE.
(COMMENT: WE DID NOT PURSUE THIS POINT BUT THE REASONING
SEEMS A BIT FORCED, ESPECIALLY IN THE CASE OF THE FOUR
OFFICERS OF THE ILC).

D. WOLF AND MORGENSTERN WERE NOT ENTHUSIASTIC ABOUT
USING A PANEL OF THE COMMITTEE OF EXPERTS (COE).
THEY ARGUED THAT A "FINDING" OF AN ONGOING INVESTIGATION
DOES NOT REQUIRE THE COE. THEY ALSO WONDERED WHETHER
THE COE MIGHT CHOOSE THIRD WORLD MEMBERS FOR ITS PANEL
WHO MIGHT NOT BE SYMPATHETIC TO THE IDEA OF EXCLUDING
POLITICAL RESOLUTIONS. VALTICOS TOLD THEM THAT THE
COE SHOULD NOT BE CONSTRAINED TO APPOINTING ITS CHAIR-
MAN TO HEAD THE PANEL ON RESOLUTIONS.

4. MRS. LUCILLE CARON, ALTERNATE CANADIAN GOVERNMENT
MEMBER OF THE GOVERNING BODY, GAVE US A MEMO CONTAINING
HER REACTIONS TO THE U.S. PROPOSAL (SHE ASSUMES THESE
COMMENTS HAVE REACHED HOROWITZ VIA JOHN MAINWARING).
WE HAVE NOT YET DISCUSSED THIS MEMO WITH CARON, WHO
IS IN GENEVA FOR THE METAL TRADES COMMITTEE MEETING.

A. CONCERNING THE NARROWNESS OF THE CRITERION OF CONDEMNATION (RAISED BY MORGENSTERN IN PARA 3 B ABOVE), CARON SUGGESTS THAT (3) (A) AND (B) BE AMENDED TO READ: "CONDEMNS OR CRITICIZES".

B. THE CARON MEMO REFERS TO THE AUSTRALIAN CONCERN (AMBASSADOR COOK) WITH THE U.S. PROPOSAL BECAUSE IT WOULD EXCLUDE RESOLUTIONS REFERRING TO THE PREAMBLE AND ANNEX OF THE ILO CONSTITUTION (SEE PARA FIVE BELOW). CARON SUGGESTS THAT THIS BE HANDLED BY AMENDING (3) (A) AND (B) TO REFER ONLY TO "EXISTING ILO STANDARDS" AND BY REMOVING REFERENCES TO ILO CONVENTIONS AND RECOMMENDATIONS; SHE BELIEVES THIS LANGUAGE COULD BE "INTERPRETED CONFIDENTIAL

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PAGE 03 GENEVA 03039 02 OF 02 251747Z

BROADLY TO THEORETICALLY INCLUDE MATTERS REFERRED TO IN THE PREAMBLE AND ANNEX OF THE CONSTITUTION AS WELL AS IN RESOLUTIONS PREVIOUSLY ADOPTED BY THE CONFERENCE".

C. CONCERNING THE AMENDMENT PROCEDURE IN THE ILC RESOLUTION COMMITTEE, CARON SUGGESTS THAT PROPOSED AMENDMENTS WHICH FALL UNDER (3) (A) AND (B) COULD BE REFERRED TO THE ILC OFFICERS FOR DECISION "WITHIN 48 HOURS" IN ORDER TO AVOID DELAY IN THE WORK OF THE RESOLUTIONS COMMITTEE.

5. IN A BRIEF CONVERSATION LAST WEEK WITH AMBASSADOR COOK BEFORE WE RECEIVED THE CARON MEMO, HE TOLD US HE HAD SENT HIS COMMENTS ON THE U.S. PROPOSAL TO HOROWITZ. HE DID SAY THAT THE PROPOSAL WAS TOO NARROW IN THAT IT WOULD EXCLUDE RESOLUTIONS REFERRING TO THE ILO CONSTITUTION AND THE PHILADELPHIA DECLARATION. WITHOUT KNOWING FOR SURE IF COOK HAD ADVOCATED THIS TO HOROWITZ, WE SIMPLY RECALLED THAT THE UK REP (ORGAN) HAD PROPOSED AN AMENDMENT TO THE U.S. PROPOSAL AT THE MAY 1975 SESSION OF THE WORKING PARTY ON STRUCTURE; BECAUSE OF THE BROAD LANGUAGE IN THE PHILADELPHIA DECLARATION, WE HAD OPPOSED MORGAN'S AMENDMENT BECAUSE IT WOULD VIRTUALLY EMASCULATE A MEANINGFUL SCREENING OF POLITICAL RESOLUTIONS.

6. COMMENT: THE ABOVE SUGGESTIONS LEAD US TO CONCLUDE THAT WE ARE A LONG WAY FROM A PERFECT SCREENING PROCESS AND THAT EVEN THE BEST ALTERNATIVE WILL WORK ONLY IF IMEC AND OTHER ILO MEMBERS ARE COMMITTED TO MAKING IT WORK. WITH THE EXCEPTION OF 4B ABOVE, WE BELIEVE THAT THE SUGGESTIONS IN PARAS TWO TO FIVE ABOVE WILL BE HELPFUL IN DRAFTING A NEW U.S. PROPOSAL. ONCE THAT IS DONE, WE SHOULD LOSE NO TIME IN CONSULTING WITH OUR ALLIES IN GENEVA. END COMMENT.SORENSEN

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